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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/889,230	07/13/2001	Naoki Yumiyama	YMOR:214	9837
7590	11/16/2004		EXAMINER	
Parkhurst & Wendel 1421 Prince Street Suite 210 Alexandria, VA 22314-2805			ORTIZ CRIADO, JORGE L	
			ART UNIT	PAPER NUMBER
			2655	

DATE MAILED: 11/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/889,230	YUMIYAMA, NAOKI
	Examiner	Art Unit
	Jorge L Ortiz-Criado	2655

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 25 August 2004.

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-4 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-4 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_ .  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_ .

## DETAILED ACTION

### *Specification*

1. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:

The limitation terminology of “a start up period” and the terms and phrases used in the claims must find clear support or antecedent basis in the description so that the meaning of the terms in the claims may be ascertainable by reference to the description. There is insufficient antecedent basis for this limitation in the specification and the claims presented do NOT comply with 37 CFR 1.75(d)(1)

37 CFR 1.75(d)(1):

(d)(1) *The claim or claims must conform to the invention as set forth in the remainder of the specification and the terms and phrases used in the claims must find clear support or antecedent basis in the description so that the meaning of the terms in the claims may be ascertainable by reference to the description. (See § 1.58(a)).*

MPEP § 608.01(o):

*“The meaning of every term used in any of the claims should be apparent from the descriptive portion of the specification with clear disclosure as to its import;”*  
*“Usually the terminology of the original claims follows the nomenclature of the*

*specification, but sometimes in amending the claims or in adding new claims, new terms are introduced that do not appear in the specification. The use of a confusing variety of terms for the same thing should not be permitted."*

*"New claims and amendments to the claims already in the application should be scrutinized not only for new matter but also for new terminology. While an applicant is not limited to the nomenclature used in the application as filed, he or she should make appropriate amendment of the specification whenever this nomenclature is departed from by amendment of the claims so as to have clear support or antecedent basis in the specification for the new terms appearing in the claims. This is necessary in order to insure certainty in construing the claims in the light of the specification, Ex parte Kotler, 1901 C.D. 62, 95 O.G. 2684 (Comm'r Pat. 1901). See 37 CFR 1.75, MPEP § 608.01(i) and § 1302.01.*

*"If the examiner determines that the claims presented late in prosecution do not comply with 37 CFR 1.75(d)(1), applicant will be required to make appropriate amendment to the description to provide clear support or antecedent basis for the terms appearing in the claims provided no new matter is introduced."*

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Ishihara et al. U.S. patent No. 5,805,548.

Regarding claim 1, Ishihara et al. discloses an optical disk reproducing device for reproducing a disk-shaped recording medium on which a recording has been made, comprising: constant angular velocity (CAV) means for controlling a spindle motor during "a start-up period" from start of spin-up processing of such a disk-shaped recording medium to a read standby state (See col. 8, line 30 to col. 9, line 44; col. 10, line 61 t col. 11, line 5; col. 14, lines 43-52; Figs. 1,2,5 and 10).

Regarding claim 2, Ishihara et al. discloses wherein said CAV means for controlling a spindle motor is for controlling the spindle motor when a disk-shaped recording medium rotates at a low speed (See col. 8, line 30 to col. 9, line 44; col. 10, line 61 t col. 11, line 5; col. 14, lines 43-52; Figs. 1,2,5 and 10)

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3 and 4 rejected under 35 U.S.C. 103(a) as being unpatentable over “admitted prior art” in view of U.S. patent No. 5,805,548.

Regarding claim 3, the “admitted the prior art” teaches a method of spin-up processing for reproducing a disk-shaped recording medium on which a recording has been made (See page 2, lines 4-7; see flowchart of Fig. 3), the method comprising:

performing servo adjustment and acquiring a LEAD-IN final address (See page 2, lines 16-18; see Fig. 3 step2 and step 3);

conducting constant linear velocity CLV measurement (See page 2, lines 18-19; see Fig. 3 step 4) and

setting an angular velocity of a disk-shaped recording medium to be slower than maximum rotational speed to perform a predetermined processing (See page 2, lines 23-25; see Fig. 3 step 6);

and performing HOLD TRACK (See page 2, lines 33-34; see Fig. 3 step 10).

The admitted prior art does not teach controlling a spindle motor by constant angular velocity (CAV) control during “a start-up period” from start of spin-up processing to a read standby state.

However, this feature is well known in the art and is evidenced by Ishihara et al., which discloses an optical disk reproducing device for reproducing a disk-shaped recording medium on which a recording has been made, comprising constant angular velocity (CAV) means for controlling a spindle motor during “a start-up period” from start of spin-up processing of such a

disk-shaped recording medium to a read standby state (See col. 8, line 30 to col. 9, line 44; col. 10, line 61 to col. 11, line 5; col. 14, lines 43-52; Figs. 1,2,5 and 10).

Therefore it would have been obvious to one ordinary with skill in the art at the time of the invention to set the spindle motor to be driven under CAV control and accomplish the spindle motor during process “during a start-up period” from start of the spin-up processing to a read standby state in order to reduce the time period of search/seek operation after, efficiently reproducing the disk in short time, reducing power consumption and further efficiently controlling the transfer rate of the reproduction, as suggested by Ishihara et al.

Regarding claim 4, the “admitted prior art” further teaches wherein setting angular velocity of a disk-shaped recording medium to be slower than a maximum rotational speed comprises setting angular velocity to be half of the maximum rotational speed (See page 2, lines 23-25; see Fig. 3 step 6).

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. (1) U.S. Patent No. 5,521,895 to Miura et al.; (2) U.S. Patent No. 6,407,977 to Kang; (3) U.S. Patent No. 6,122,237 to Ohmori et al.; (4) U.S. Patent No. 6,535,466 to Youn:

which discloses an optical disk reproducing device for reproducing a disk-shaped recording medium on which a recording has been made, comprising: a constant angular velocity (CAV) means for controlling a spindle motor during “a start-up period” from

start of spin-up processing of such a disk-shaped recording medium to a read standby state.

***Response to Arguments***

6. Applicant's arguments with respect to claims 1-4 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jorge L Ortiz-Criado whose telephone number is (703) 305-8323. The examiner can normally be reached on Mon.-Thu.(8:30 am - 6:00 pm),Alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doris H To can be reached on (703) 305-4827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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SUSAN MCFADDEN  
PRIMARY EXAMINER